

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

STEPHEN YANG,

Plaintiff,

- against -

AMERICAN BROADCASTING COMPANIES, INC.

Defendant.

Docket No. \_\_\_\_\_

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Stephen Yang (“Yang” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant American Broadcasting Companies, Inc., (“ABC” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of the biggest cat in New York named Samson owned and registered by Yang, a New York City based photojournalist. Accordingly, Yang seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or are doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

## **PARTIES**

5. Yang is a professional photojournalist in the business of licensing his photographs to online, print, and television stations for a fee, having a usual place of business at 270 Empire Boulevard, #1K, Brooklyn, New York 11225. Yang's photographs have appeared in many publications around the United States.

6. Upon information and belief, ABC is a foreign business corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 77 West 66<sup>th</sup> Street, New York, New York 10023. Upon information and belief, ABC is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, ABC has operated their Instagram account "abc7la" (the "Website").

## **STATEMENT OF FACTS**

### **A. Background and Plaintiff's Ownership of the Photograph**

7. On or about August 6, 2016, Yang photographed Samson, the heaviest cat in New York with his owner Jonathan Zurbel (the "Photograph"). Samson weights 28 pounds and according to a New York City veterinarian is the largest cat in New York. His owner takes him around Brooklyn in a pet stroller. Samson garnered national attention around the United States. A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Yang is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph has a pending United States Copyright number of 1-401518856. A copy of the pending registration is attached hereto as Exhibit B.

### **B. Defendant's Infringing Activities**

10. Upon information and belief, ABC copied the Photograph and placed it on their Instagram social media website. A true and correct copy of the Photograph on the Website is attached hereto as Exhibit C.

11. The Instagram page with the Photograph received 1,347 likes.

12. ABC's Instagram account has 109,000 followers.

13. ABC did not license the Photograph from Plaintiff for its Website, nor did ABC have Plaintiff's permission or consent to publish the Photograph on its Website.

14. ABC has a history of copyright infringement of Plaintiff's work. In August 2016, ABC used a different one of Plaintiff's cat photographs without permission on an ABC News website. That case was filed in the Southern District of New York on November 1, 2016 in-captioned *Yang v. American Broadcasting Companies, Inc.* (1-16-cv-08483-NRB).

15. Even after being put on notice of Plaintiff's work, ABC continued to use Plaintiff's cat photographs, this time putting Plaintiff's Photograph on their Instagram account so their 109,000 followers can see the Photograph.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST ABC)**  
**(17 U.S.C. §§ 106, 501)**

16. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-15 above.

17. ABC infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. ABC is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

18. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

19. Upon information and belief, the foregoing acts of continuing to infringe on Plaintiff's work by ABC have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

20. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

21. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant ABC be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;

4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
March 8, 2017

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